

## **SUBCOMMITTEE NO. 4**

## **Agenda**

Senator Mark DeSaulnier, Chair  
Senator Tom Harman  
Senator Gloria Negrete McLeod



Thursday, March 4, 2010  
9:30 a.m. (or upon adjournment of session)  
Room 112

Consultant: Brian Brown

### **Item Number and Title**

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## Vote Only Items

	Issue	2010-11 Amount	Fund Source	Staff Recommendation
<b>Department of Alcoholic Beverage Control (2100)</b>				
1	IT Infrastructure Replacement	\$86,000	Alcoholic Beverages Control Fund	Approve
<b>Department of Justice (0820)</b>				
1	Dealers' Record of Sale (DROS) Workload Increase	\$257,000	DROS Special Account	Approve
2	Gun Show Programs Augmentation	-\$616,000 \$801,000	General Fund DROS Special Acct.	Approve
3	Compliance and Enforcement Investigation Workload	\$184,000	Gambling Control Fund	Approve
4	COPS Technology Program Grant	\$500,000	Federal Trust Fund	Approve
5	SB 741 Proprietary Security Srvs Act	\$75,000	Fingerprint Fees Account	Reject dollars; Approve BBL
6	AB 1025 ASCC	\$172,000	Fingerprint Fees Account	Reject dollars; Approve BBL
7	SB 447 Custodian of Records	\$378,000	Fingerprint Fees Account	Reject dollars; Approve BBL
<b>California Department of Corrections and Rehabilitation (5225)</b>				
1	Program Funding Realignment	\$0	General Fund	Approve
2	Inmate Dental Services Program Restructure	\$0	General Fund	Approve
3	DJJ Education Proposition 98 Savings	-\$6,366,000	General Fund – P98	Approve

## **Vote Only Items – Issue Descriptions**

### ***Department of Alcoholic Beverage Control (2100)***

#### Issue 1 – IT Infrastructure Replacement

The administration requests \$86,000 one-time funding from the Alcoholic Beverages Control Fund to replace 17 desktops and 44 laptops. This is a continuation of larger information technology refresh approved for the current fiscal year which included replacement of 145 desktops and 138 laptops.

### ***Department of Justice (0820)***

#### Issue 1 – Dealers' Record of Sale Workload Increase

The department requests \$257,000 from the Dealers' Record of Sale (DROS) Account to address a projected 10 percent increase related to the number of background checks performed on gun purchasers by the Bureau of Firearms. The department has a statutory requirement to complete these reviews within 10 days, and the department reports that increased workload has required diversion of staff from other functions. The request would provide funding for 3 additional positions, though the department would use its existing position authority. Fees paid by dealers fund this workload, and there is no General Fund impact from this proposal.

#### Issue 2 – Gun Show Programs Augmentation

The department requests a net augmentation of \$185,000 for an additional Special Agent for its enforcement team responsible for investigating gun shows with the intention of preventing sales of illegal firearms and ammunition. This request includes in the transfer of current General Fund support for this program of \$616,000 to the DROS Account. The combination of the additional position and transfer of General Fund costs results in a total augmentation to the DROS Account of \$801,000, and provides a General Fund reduction of \$616,000.

#### Issue 3 – Compliance and Enforcement Investigation Workload

The department requests \$184,000 of Gambling Control Fund authority to add 2 additional positions for its program to regularly inspect gambling cardrooms. The department reports a backlog of 151 inspections based on increased regulatory requirements since 2007-08 and insufficient staffing levels to inspect all 91 cardrooms in the state. If approved, these additional staff would allow the department to complete one inspection of each cardroom annually. According to the department, each inspection requires drive approximately two weeks of workload.

#### Issue 4 – COPS Technology Program Grant

The department requests one-time Federal Funds increase of \$500,000 to support a new federal grant for the Community Oriented Policing Services (COPS) Technology Grant Program. The funding will be used to support implementation of DOJ's Vision 2015 Criminal Justice Information Sharing Project activities in Santa Clara County. Specifically, the funding will be used to purchase mobile identification devices for patrol cars and purchase live scan fingerprint devices to match a court adjudication transaction to an active State Identification Number.

Issues 5-7: SB 7 Proprietary Security Services Act; AB 1025 Activity Supervisor Clearance Certificate; SB 447 Custodian of Record

The department has three proposals, totaling \$699,000 in additional Fingerprint Fee Account authority, in order to address additional workload projected related to recently enacted laws designed to increase the number of people required to be fingerprinted and have their criminal histories checked by DOJ. The department further proposed Budget Bill Language providing the department authority to spend above its budgeted authority by up to 10 percent if higher than anticipated workload arises. The language would further require notification to the Joint Legislative Budget Committee within 15 days of any such augmentation. Due to uncertainty surrounding the impact of the new laws, the DOJ has requested to withdraw the requested augmentations but to retain the proposed Budget Bill Language which would allow the department the flexibility to address new workload.

***California Department of Corrections and Rehabilitation (5225)***

Issue 1 – Program Funding Realignment

The administration proposes to permanently realign funding for a number of programs and divisions within the department to more accurately match General Fund authority and program expenditures. For example, the proposal includes moving regional accounting office expenditure authority from the budget program for institutions to the budget program for administration. There is no net cost for this proposal.

Issue 2 – Inmate Dental Services Program Restructure

The administration proposes to restructure the department's inmate dental program by reorganizing authorized staff positions. The department proposes to eliminate the Chief Dentist position at each institution and replace with lower cost Health Program Manager III positions. The department further proposes to reduce the number of dentists in the prisons and add dental hygienists. On net, the department's inmate dental program position authority would increase by 69 positions but at no additional state costs. It is further worth noting that the proposed restructuring would net \$10 million in savings, but these savings have been scored towards the department's \$100 million unallocated reduction required in the 2009-10 Budget Act.

Issue 3 – DJJ Education Proposition 98 Savings

The department proposes a total reduction of \$6.4 million in General Fund-Proposition 98 funding for the Division of Juvenile Justice. These reductions reflect two technical adjustments that should have been made in past budget cycles. This includes \$4.0 million in one-time costs approved in 2005-06, but the funding was not removed in subsequent years. In addition, the 2006-07 budget included recruitment and retention bonuses for teachers. However, when the ward population declined, the funding for bonuses was not reduced accordingly.

## Department of Alcoholic Beverage Control (2100)

**Departmental Overview.** The mission of the Department of Alcoholic Beverage Control is to administer the provisions of the Alcoholic Beverage Control Act in a manner that fosters and protects the health, safety, welfare, and economic well being of the people of California. Upon repeal of prohibition in 1933 and the return of the legal sale of alcoholic beverages to California, taxation and regulation of the manufacture, distribution, and sale of alcoholic beverages were given to the State Board of Equalization. In 1955, an amendment of the State Constitution became effective removing the duty of regulating the manufacture and sale of alcoholic beverages from the State Board of Equalization and placing it in the new Department of Alcoholic Beverage Control (ABC). The primary responsibilities of ABC are to issue licenses to allow the sale of alcoholic beverages and to investigate and make arrests for legal violations that occur on licensed premises. Licensees who violate State laws or local ordinances are subject to disciplinary action and may have their licenses suspended or revoked.

**Budget Overview.** The Governor's budget provides \$58.5 million for ABC in 2010-11, a \$5.1 million increase over 2009-10 projected expenditures. About 96 percent of the department's proposed budget is funded through the Alcoholic Beverages Control Fund which is funded through licensing revenues. The department is funded for about 460 positions, the same number as funded in the current year.

### Issue 1 – Liquor License Fee Adjustment

**Background.** The original fee for a general liquor license is currently \$12,000. This fee was last adjusted in 1995.

**Governor's Budget Request.** The administration proposes to increase this fee 15 percent to \$13,800. Upon full implementation, the fee increase would generate an estimated \$788,400 in new revenues to be deposited into the Alcoholic Beverages Control Fund.

	2010-11	2011-12
Alcoholic Beverages Control Fund	\$394,200 (revenues)	\$788,400 (revenues)
PY's	0	0

**Staff Comments.** Current statute allows annual adjustments to license renewal fees based on the California Price Index (CPI), but the law does not provide for the same adjustments for the original fee. The proposed increase of 15 percent is less than the increase in CPI since 1995 (46 percent), and while the proposed increase in fees is significant during a struggling economy, the department reports that the market value of liquor licenses is much higher than what is proposed, reaching as high as hundreds of thousands of dollars in some places.

The department reports an anticipated structural budget shortfall of \$3.3 million in 2010-11, primarily due to expected increases in personnel costs associated with the conclusion of employee furloughs. The department reports that while it projects a fund balance at the end of the current year of about \$13.6 million, projected cost increases will deplete the fund balance within a couple of years absent an increase in revenues.

Staff notes that even with proposed fee increases for a general liquor license and the catering and event authorization fee (see Issue 2 below), the department still projects a structural shortfall in the budget year of \$2.8 million. While the proposed fee increases, as well as the potential for a recovering economy in coming years would improve the fund balance, the ongoing structural shortfall could mean fund depletion within a few years. The committee may wish to direct the department to report on what steps it plans to take to address its structural budget shortfall before authorizing a fee increase of this magnitude.

**Staff Recommendation.** Hold open.

<b>Issue 2 – Alcoholic Beverage Catering Authorization/Event Authorization Fee Adjustment</b>
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**Background.** The department's fees for the review, processing, and issuance of catering and event authorizations is currently \$10. The fee for catering authorization has not been adjusted since its statutory imposition in 1979, and the fee for an event authorization has not been adjusted since its statutory creation in 1997.

**Governor's Budget Request.** The administration proposes to increase these fees to \$25. Upon full implementation, the fee increases would generate an estimated \$256,500 in new revenues to be deposited into the Alcoholic Beverages Control Fund.

	2010-11	2011-12
Alcoholic Beverages Control Fund	\$128,250 (revenues)	\$256,500 (revenues)
PY's	0	0

**Staff Comments.** Current statute allows annual adjustments to license renewal fees based on the California Price Index (CPI), but the law does not provide for the same adjustments for these fees. As a consequence, the administrative costs of reviewing, processing, and issuing these authorizations (\$35-\$45) significantly exceed the current fee allowed.

**Staff Recommendation.** Approve as budgeted.

## **Department of Justice (0820)**

**Departmental Overview.** The Attorney General is the chief law officer of the state and has the responsibility to see that the laws of California are uniformly and adequately enforced. This mission is fulfilled through the diverse mission of the Department of Justice (DOJ).

The DOJ is responsible for providing legal services on behalf of the people of California. The Attorney General represents the people in all matters before the Appellate and Supreme Courts of California and the United States; serves as legal counsel to state officers, boards, commissions, and departments; represents the people in actions to protect the environment and to enforce consumer, antitrust, and civil rights laws; and assists county district attorneys in the administration of justice.

The DOJ also coordinates efforts to address the statewide narcotic enforcement problem; assists local law enforcement in the investigation and analysis of crimes; provides person and property identification and information systems to criminal justice agencies; supports the telecommunications and data processing needs of the California criminal justice community; and pursues projects designed to protect the people of California from fraudulent, unfair, and illegal activities.

**Budget Overview.** The 2010-11 budget proposal provides \$749.9 million for DOJ. This is an increase of \$17.2 million over projected expenditures for the current year. The Governor's proposed budget includes about \$246 million in General Fund support for DOJ. The department is funded for 5,013 positions, a slight reduction from the current year.

As part of the 8<sup>th</sup> Extraordinary Session, the Legislature approved ABx8 2 and ABx8 3 (Committee on Budget) which reduced the department's General Fund budget by \$45 million in 2010-11 by raising the DNA penalty by \$2.

### **Issue 1 – Legal Services Fund Swap**

**Background.** The DOJ represents state departments in various court matters. Under current law, Special Fund departments reimburse DOJ for legal work on a billable hours basis. These payments are deposited into DOJ's Legal Services Revolving Fund.

General Fund departments, however, do not pay DOJ for legal representation. Instead, DOJ has its own General Fund appropriation of \$48,170,000 with which it funds this legal work. The department notes that in recent years the amount of workload on DOJ attorneys has been higher than they can absorb with existing resources, and the Attorney General has been directing General Fund departments to obtain outside counsel, some times at greater hourly cost than what DOJ charges to billable clients.

**Governor's Budget Request.** The department requests authority to bill General Fund clients for legal work as it does for Special Fund clients. In order to accomplish this, the department proposes to reduce its General Fund authority by \$48.2 million and increase its Legal Services Revolving Fund authority by an equivalent amount. Under Control Section

5.20, the Department of Finance would have the authority to determine how the legal service funding would be allocated among General Fund clients. The Control Section further requires quarterly reporting to the Joint Legislative Budget Committee regarding the allocations. The administration also proposes elimination of the existing statutory requirement that charges for DOJ legal services cannot be made against the General Fund.

	2009-10	2010-11
General Fund	\$0	-\$48,170,000
Legal Services Revolving Fund		\$48,170,000
PY's	0	0

**Staff Comments.** The idea of making General Fund departments pay DOJ for its legal services has merit. Making client departments bear the cost of litigation could provide them with fiscal incentives that they do not have currently to consider the full costs associated with litigation. This may be particularly true for departments that face a lot of litigation and should probably weigh the relative strengths of different cases before they decide which to litigate and which to settle, for example.

In addition, moving General Fund clients to a billable system, each with its own General Fund appropriation for legal costs, would mean that these legal costs would be reflected in the client department budget each year, rather than in DOJ's budget. This is probably a more accurate and transparent budgeting approach and would further mean that departments would have to come to the Legislature directly if they required additional resources for new legal cases that might arrive. This, in turn, would give the Legislature an opportunity to decide if those litigation costs are a high enough priority to fund.

While these merits make this proposal worth considering, there are also tradeoffs to consider. The total funding provided is \$48.2 million. However, DOJ reports that the total number of hours worked by DOJ for General Fund clients in 2008-09 was 456,267 hours. At DOJ's billable rate of \$170 per hour, this comes to \$77.6 million in workload, about 61 percent more than what is actually budgeted. The DOJ reports that the department has been forced to absorb these costs in recent years through use of overtime and use of resources from other areas of operation. The DOJ points out that moving to a billable rate could result in departments being more selective about how frequently they utilize DOJ's legal services which would have the impact of reducing the total costs. However, it is not clear that client departments could reduce their legal workload by 61 percent in the budget year.

In addition, the administration does not propose to directly allocate the funding to client departments' budgets, instead allowing the DOF to allocate the funds over the course of the fiscal year as requests come in from departments. These factors are likely to leave departments with significant uncertainty as to what they will ultimately have in their budget for legal services, making planning difficult. Adding to this uncertainty is that it is unclear what criteria DOF will use to determine which legal requests are granted and which are denied. Finally, it is unclear what will happen if, as is likely to occur, the total funding is used up before the end of the fiscal year. Will departments be required to delay, lose, or settle cases that they might not otherwise? Or are they likely to come to the Legislature with deficiency requests?



**Top 10 Non-Billable Client Hours and Associated Costs**  
(Fiscal Year 2008-09)

	<b>Department</b>	<b>Hours</b>	<b>Costs</b>
1	Corrections and Rehabilitation	294,905	\$50,13,850
2	Mental Health	21,596	3,671,320
3	Franchise Tax Board	17,891	3,041,470
4	Governor's Office	17,686	3,006,620
5	Board of Equalization	15,931	2,708,270
6	Ca. Coastal Commission	12,722	2,162,740
7	Forestry and Fire Protection	12,586	2,139,620
8	State Water Resources Control Board	10,306	1,752,020
9	State Lands Commission	8,286	1,408,620
10	Parks and Recreation	7,837	1,332,290
	<i>Total, All Departments</i>	<i>456,267</i>	<i>\$77,565,390</i>

**LAO Findings and Recommendations.** The LAO makes the following findings and recommendations:

- ***Proposal Does Not Appropriate Funds.*** There appears to be a technical problem with the Governor's proposal in that the funds intended for legal services are not appropriated in the budget bill. Without such an appropriation, the funds cannot be allocated by DOF.
- ***Proposed Legislative Oversight Is Weak.*** The interim budget control process proposed by the administration does not provide sufficient legislative oversight for the allocation of funding. The proposed control section would provide DOF unlimited authority to adjust the appropriations of departments for legal services without any prior legislative review. Under the Governor's proposal, the Legislature would be notified after the fact, on a quarterly basis, of budget adjustments made by DOF.
- ***Interim Authority Justified for Only One Year.*** The administration proposes that the additional authority over spending for legal services be delegated to DOF for an indefinite period of time, perhaps several years. However, there is no compelling reason why the transitional process of having DOF review and approve each request for legal services should continue beyond the budget year. Data on actual legal services usage and costs by agency collected both prior to and during 2010-11 should be sufficient to determine the necessary baseline adjustments by May 2011 that could be made for 2011-12.
- ***LAO Recommends Approval with Modifications.*** The LAO believes the administration's proposal has merit and could eventually lead to savings by state agencies on the cost of legal representation. In view of the above concerns, however, the LAO recommends that the Legislature amend the proposed budget control section to provide for stronger legislative oversight of the new process. In particular, it should specify that any request above \$1 million may proceed no sooner than 30 days after the Director of DOF provides notification of the proposed expenditures to the JLBC. In addition, the LAO recommends that the budget control section process proposed by the administration be approved by

the Legislature only for 2010-11, in order to complete the move towards an effective billable-services system as early as possible. Finally, the LAO recommends that the Legislature appropriate the \$48 million for legal services in an item in the budget.

**Staff Recommendation.** Hold open.

## California Department of Corrections and Rehabilitation (5225)

**Departmental Overview.** Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include YACA, the California Department of Corrections, Youth Authority, Board of Corrections, Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training.

According to the department's website, its mission is to "enhance public safety through the safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities."

The CDCR is responsible for the incarceration, training, education, and care of adult felons and nonfelon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and reincarceration of those parolees who commit new offenses or parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides local assistance in the form of grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 12 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates five juvenile correctional facilities, including two reception centers. In addition, CDCR manages 13 Community Correctional Facilities, about 50 adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and nearly 200 adult and juvenile parole offices, as well as houses inmates in 6 out-of-state correctional facilities.

**Budget Overview.** The 2010-11 General Fund budget for CDCR is \$8.5 billion, primarily for adult prison operations. This total is a decrease compared to the current year, primarily because of proposals to reduce spending on inmate health care, make certain felony offenses punishable by local jail instead of prison, and the continued implementation of legislative reforms enacted in the 2009-10 budget. Overall, the Governor's proposed budget provides about 11 percent of General Fund resources to CDCR.

## Oversight Issue 1 – DJJ Reentry and Parole

**Mission of DJJ Parole Division.** The mission of DJJ's parole division is specified in W&I Code 1710(b)(3) which reads, "The purpose of the Division of Juvenile Parole Operations within the Department of Corrections and Rehabilitation is to monitor and supervise the reentry into society of youthful offenders under the jurisdiction of the department, and to promote the successful reintegration of youthful offenders into society, in order to reduce the rate of recidivism, thereby increasing public safety."

**Description of DJJ Reentry and Parole Programs.** Research on successful juvenile offender rehabilitation systems finds that reentry should begin when wards enter juvenile facilities and be a consistent part of their programming during the course of their stay and into post-release supervision. As described in more detail later in this agenda, this is the approach required by the *Farrell* remedial plans. Some aspects of DJJ's reentry and parole system are described here.

- **Sentencing.** It is important to note that unlike most adult inmates sent to state prison, wards adjudicated in juvenile courts are sent to state facilities on an indeterminate term with a maximum age by which they must be released. The Juvenile Parole Board is charged with determining if a ward is suitable for release prior to that maximum age. According to a CDCR report, the board heard 403 parole consideration date initial hearings. On average, wards had spent 30.2 months in DJJ before having this first hearing. In total, average time served in DJJ before first release was 35.3 months in 2008.
- **Screening and Assessment.** The department reports that reentry planning begins at admission with the Community Assessment Report, begun in July 2009, and designed for parole agents to begin the process of identifying key community and family issues and preparing a transition plan. The department also report that both institution and parole staff have been trained in administering risk and needs assessments which are designed to inform an individualized treatment plan.
- **Facility Reentry and Rehabilitation Programs.** The *Farrell* remedial plans require various programs and treatment services to be provided in DJJ facilities, including education and vocational programs, substance abuse treatment, and mental health treatment. The department also reports that it has implemented two transition courses through its education program. One, the Transition Orientation, occurs when the ward first enters the DJJ High School, and the second, Transition to Success, occurs within a year of release. Both are designed to provide transitional planning and counseling working with Transition Coordinators and Teachers. Historically, the department has also had wards work with a Transition Coordinator individually when they were within 90 days of release. The department reports that they want to begin this process earlier, closer to six months prior to release.
- **Parole Supervision.** When released, wards are initially placed on intensive supervision caseloads for the first three to nine months after release. These reentry caseloads are 15 parolees for every parole agent. Other parolees are on specialized caseloads of 30 to 1, or on case management caseloads of 50:1 or 70:1. About 8 percent of parolees are on reentry caseloads, 47 percent are on specialized caseloads, and the remaining 45 percent are on case management caseloads. For 2008, parolees exiting parole had spent an average of about 22 months under parole supervision.
- **Parole Programs.** Based on information provided by DJJ, parolees have access to a variety of community programs and services. These include substance abuse, education, employment, mental health, and sex offender programs. Many of the programs are contracted through private or non-profit vendors or provided by local government agencies. It appears that the number and type of programs available varies depending on geographical location. The DJJ reports that some things they

believe still need to be done to improve parole programs are (1) appropriate allocations in order to attract more qualified providers, (2) obtaining more services in remote areas, (3) improved monitoring of programs, (4) improved community collaborations, (5) more alternative sanction options for parole violators, and (6) evaluation components to identify the degree to which programs are working.

- **Parole Violators.** Historically, the recidivism rate of DJJ wards released has been over 50 percent within two years of release, and about three-quarters of all releases have recidivated within three years of release. The department's standard recidivism report has not been updated the past two years. The department reports that it is developing a revised set of recidivism measures that will more accurately coincide with how other states report recidivism.

**Profile of DJJ Wards and Parolees.** As of December 31, 2009, there were 1,705 DJJ parolees. About 65 percent of them were on parole for the first time. About 12 percent had 2 or more parole violation returns. About half of the parolees are from Northern California counties, and about half are from Southern California counties. Los Angeles has the most juvenile parolees with about 400. About 85 percent of DJJ parolees are of African American or Hispanic ethnicity. About 99 percent are 18 or older. Just over half of the parolees are Board Category 4 (on a range of 1 through 7) which includes various serious and violent offenses, particularly assault with a deadly weapon and robbery

**Costs of Reentry and Parole.** The Governor's budget provides \$32.6 million for DJJ's Parole Division. This comes to about \$22,000 per parolee. The Governor's Budget does not identify how much of these costs are attributed to supervision versus treatment programs or other types of parole services. In total, the proposed budget authorizes 161 PYs for the DJJ Parole Division.

**Impact of DJJ Litigation on Reentry and Parole Programs.** Two major lawsuits have impacted the way that DJJ provides reentry and parole services.

- **Farrell v. Schwarzenegger.** In 2004, the state and plaintiffs entered into a consent decree that required the state to substantially improve the operation of DJJ facilities in order to "provide all wards in the department with adequate and effective care, treatment and rehabilitative services." Several of the remedial plans that were developed in response to the consent decree affect how wards are prepared for community reentry. In general, the remedial plans require the department to implement programs and policies designed to rehabilitate wards with the effect that those individuals will be more able successfully reenter their communities. This approach is subsumed in the Integrated Behavior Treatment Model (IBTM) which requires the department to integrate screening and assessment, programs, housing, and reentry within every aspect of the department's activities. The remedial plans require the department, among other things, to prepare for reentry starting at the onset of the youth's arrival at a DJJ reception center and should include individualized treatment plans. The remedial plans further require DJJ to improve transition services by establishing a transition program and increasing contact with parole agents, community providers, and families as youth near parole. This includes the establishment of regional reentry coordinators and reentry specialists at every facility.

- ***LH v. Schwarzenegger.*** In 2006, the state and plaintiffs entered into a stipulated agreement in the *LH v. Schwarzenegger* lawsuit. The agreement required the state to fix the juvenile parole revocation system such that it would no longer violate constitutional protections of due process. Specifically, the agreement required the state to make changes that included providing juvenile parolees undergoing the revocation process to be represented by an attorney, establishing maximum timeframes in which various steps of the revocation process must occur, and providing alternatives to incarceration.

**National Research on Juvenile Reentry and Parole.** Based on a review of the national literature, there is less definitive research about what works in the area of juvenile corrections than in adult corrections, for example. However, there is evidence that certain types of programs can be effective at reducing rates of reoffending by incarcerated juveniles. The Washington State Institute for Public Policy (WSIPP) has conducted meta-analyses of various research studies from across the nation. Using this data, they find that several programs not only reduce recidivism, but also are cost-effective, meaning the fiscal benefits to taxpayers and crime victims from preventing new crimes is greater than the cost of providing the program. These include various types of treatment and therapy programs, sex offender treatment, and drug courts, for example. Net savings for such programs, according to WSIPP, can reach as high as tens of thousands of dollars per participant for these programs. More generally, research shows that effective programs follow certain common principles, including (a) assessing the needs of offenders and providing individualized treatment, (b) targeting programs based on the risk of offenders, (c) making programs responsive to the type of offender being served, for example based on gender, (d) measuring the fidelity of how well programs are implemented, (e) getting family participation, and (f) selecting, training, and retaining qualified program providers.

**DJJ Reentry and Parole Outcomes.** The department is required under Penal Code 2063 to provide the Legislature with an annual report regarding various department activities, including in-prison and parole programs and outcomes, including recidivism. The report is due to the JLBC by January 10 of each year, and the 2010 report shows that in 2008-09 there were 467 juvenile parolee returns to DJJ facilities. This represented about 25 percent of the average daily population of parole, and was a significant increase over the prior year (16 percent). In addition, the department has worked in recent years to implement a standardized tool for tracking department-wide data on program operations and outcomes. This tool, called COMPSTAT, identifies some of the following information on program participation and outcomes in DJJ Parole (for the 4<sup>th</sup> quarter of 2009):

- ***Parole Violations.*** Parolees committed 287 violations during the quarter (out of an active caseload of 1,495 parolees). About 64 percent of these were for substance abuse. About 19 percent were for violent offenses, including domestic violence.
- ***Program Participation.*** About 30 percent of parolees are receiving counseling services for psychological, sex offender, or substance abuse issues. About 10 percent are in transition placement beds for these issues.
- ***Employment.*** About 22 percent of parolees are employed full-time, and about 14 percent are employed part-time.
- ***Education.*** About 56 percent of parolees have a high school diploma or equivalent. About 21 percent of parolees are enrolled in an academic or vocational education program.

- **Restitution.** There are 699 parolees who owe some restitution, and they paid a total of about \$6,100 of restitution during the quarter (about \$9 per parolee owing restitution).
- **Alternatives to Revocation.** About 18 percent of parolees are in an alternative to revocation program, such as substance abuse treatment and electronic monitoring.
- **Successful Discharges.** Only 48 percent of all discharges from parole were classified as honorable (15 percent) or general (33 percent). Almost all of the rest were dishonorable discharges.

**Issues for Further Discussion.** The committee may wish to ask DJJ representatives to discuss some of the following issues:

- To what extent is the department in compliance with *Farrell* requirements related to the preparation of wards for reentry into communities? What further steps still need to be taken to meet those requirements?
- What is the status of implementing risk and needs assessments and individualized treatment plans for all wards?
- How does the department measure the success of its reentry and parole systems? To what extent does the department establish specific goals or benchmarks by which to measure its progress?
- Are the in-prison transition and reentry programs generic education programs, or are they individualized case management programs designed to provide each ward with direct assistance in obtaining housing, employment, and counseling services before release?
- Why does it cost \$22,000 per year to supervise a DJJ parolee? What drives those costs?
- What steps is DJJ taking to reduce the rate at which parolees under its supervision recidivate and commit new crimes after release?
- Does the department assess the fidelity or outcomes of programs to which it refers parolees?

## Issue 2 – DJJ Population Management Solutions

**Background.** The DJJ is responsible for housing juvenile offenders. This includes housing offenders adjudicated in juvenile courts up to a maximum age of 25. The DJJ also houses some juvenile offenders who are convicted in adult courts, and the department often houses these offenders until a maximum age of 21 before transferring them to adult prison if their sentence has not expired. These are referred to as E or M cases.

Wards adjudicated to DJJ by juvenile courts are sentenced for an indeterminate period, and they are released based on the decisions of the Juvenile Parole Board or when they reach the maximum age of jurisdiction. Current regulations allow staff to issue “time adds” – extensions of time to be served before the ward’s next parole board hearing – for facility rules infractions.

The mission of DJJ is set forth in Welfare and Institutions Code 1700 and subsequent sections. According to W&I Code 1700, “The purpose of this chapter is to protect society from the consequences of criminal activity and to that purpose community restoration, victim restoration, and offender training and treatment shall be substituted for retributive punishment and shall be directed toward the correction and rehabilitation of young persons who have committed public offenses.”

**Governor’s Budget Request.** As part of its proposed budget, the administration requested a reduction of \$48 million in 2010-11 related to the implementation of three changes designed to reduce the population of wards housed in DJJ facilities by 398. These proposals include the following:

- **Age of Jurisdiction (328 wards).** Effective July 1, only allow DJJ to hold wards until their 21<sup>st</sup> birthday or for two years, whichever is longer.
- **Transfer Eligible Wards to Adult Prison (30 wards).** Transfer 30 wards who were sentenced in criminal courts and are over the age of 18 to adult prison.
- **Elimination of Time Adds (40 wards).** Eliminate the use of time adds through change in policy and regulations.

	2009-10	2010-11	2011-12
General Fund	\$0	-\$41,280,000	-\$55,680,000
General Fund-Prop 98	\$0	-\$6,720,000	-\$9,120,000
PY’s	0	-517.6	-556.6

Since release of the Governor’s budget, the administration has changed its proposal regarding the age of jurisdiction. Instead of changing the age of jurisdiction immediately as originally proposed, the administration is now proposing to only change the jurisdiction *prospectively*, for those wards adjudicated to DJJ after the implementation of the policy. This change would mean that none of the reduction associated with the original change in age of jurisdiction proposal would be achieved in the budget year.

**Staff Comments.** In adopting ABx8 2 (Committee on Budget), the Legislature approved the budget reduction amount proposed in the Governor’s budget for DJJ in 2010-11. However, the Legislature did not adopt specific changes in statute necessary to achieve these savings, leaving that work to be done by budget committees. In determining the best approach to achieving these savings, the committee should consider several factors, including the following:

- **Impact of Time Served on Recidivism.** Research on both adult and juvenile offenders suggests that the length of time individual offenders are incarcerated does not have a significant impact on their likelihood of being returned to incarceration.



This is a significant finding when considering both the proposed changes in the age of jurisdiction and time adds. If length of stay is not a significant contributor to recidivism rates, then these proposals that would reduce length of stay in DJJ would not have as significant of a public safety impact as might otherwise be assumed. Further, while it is certainly true that incarceration does have an incapacitation effect that reduces the possibility that offenders will commit new offenses while incarcerated, it is important to remember that all of the offenders that would be affected by these policies are at most within a couple years of release anyway. For this reason, what may be more relevant than time served is the degree to which the department is successfully implementing a rehabilitative model in DJJ that will result in reduced recidivism of juvenile offenders. Of note is that only a couple of other states confine juvenile offenders until the age of 25. Instead, most other states seek to successfully treat and rehabilitate juvenile offenders within a couple of years.

- ***Effectiveness of Time Adds on Affecting Ward Behavior.*** In a November 30, 2009 hearing in front of this committee and the Senate Public Safety Committee, both a national expert and representatives of the department testified that time adds are not effective at reducing ward misconduct, its primary purpose. They stated this is primarily because the consequence of the negative behavior, a delay of the ward's next parole consideration hearing, would not affect the ward for months or years in many cases. This statement is consistent with most research on behavior intervention techniques which suggest that to be effective, consequences should be dealt quickly and with certainty, as well as in proportion to the offense. For these reasons, the department has recently informed staff that it has significantly curtailed the use of time adds, and this has contributed to a reduction in the ward population from 1,617 on February 28, 2009 to 1,411 on February 28, 2010. Importantly, if the Legislature were to approve CDCR's proposal to eliminate time adds, there remains the question of what tools will the department will have to respond to ward misconduct. The department reports that the Youth Incentive Program (YIP) is designed to achieve some of this by providing additional privileges and incentives for program participation and compliant behavior. However, staff would note that the primary mechanism the YIP uses is time cuts (the opposite of time adds), and it is unclear why these would be any more effective at modifying ward behavior than time adds. Fortunately, other states have developed systems of graduated rewards and punishments that may serve as a model for DJJ.
- ***Profile of Wards Ages 21 and Older.*** It is important to note that according to DJJ data, most wards currently in DJJ who are ages 21 and older have been adjudicated for serious and violent crimes. The most common offenses were assault with a deadly weapon (58 wards), robbery-no enhancement (44 wards), lewd and lascivious acts (32 wards), and robbery-enhanced (28 wards), representing about 51 percent of the 274 wards ages 21 and older identified by DJJ.
- ***Post-Incarceration Supervision.*** Historically, wards who have reached the maximum age of 25 in a DJJ facility have been released to the community with no parole supervision because the state's jurisdiction had expired. Recent legislation, AB 1053 (Solorio), has modified this so that wards are required to receive 3 to 4 months of parole supervision before they have reached 25 years of age and are discharged from state custody. The committee may want to consider what level of community supervision would be appropriate for wards affected by a change in the age of jurisdiction.

- ***Impact on State Prisons and Sentencing.*** Changes in age of jurisdiction and the proposal to transfer some wards to state prison would have an impact on the inmate prison population in two ways. First, the transfers would have a direct impact by taking wards who would otherwise be in a juvenile facility and housing them in state prison instead. In addition, it is possible that a change in age of jurisdiction might affect sentencing practices in some places to the extent that prosecutors and judges do not believe that the potential for a shorter DJJ term would be appropriate for some juvenile offenders and might, instead opt to prosecute those offenders as adults in criminal courts. It is unclear how often this might occur, but it is worth noting that 85 percent of first admissions to DJJ in 2008 were for violent offenses. In addition, it is notable that after the passage of SB 81 in 2007 which limited the types of cases adjudicated in juvenile courts that could result in a DJJ commitment, the percent of cases sent to DJJ from adult courts increased, from 11 percent in 2006 to 24 percent in 2008.
- ***Alternative Approaches to Achieving DJJ Savings.*** Finally, it is worth noting that various organizations have identified other options for how to achieve savings in DJJ. For example, the Little Hoover Commission issued a report in July 2008 titled “Juvenile Justice Reform: Realigning Responsibilities” where it recommended realigning the responsibility and funding for juvenile justice to the counties, in part based on the high state expense, as well as other factors. Similarly, the LAO recommended realignment of DJJ parole to counties, based in part of the high costs of that supervision, as well as the fact that because of the small number of DJJ parolees statewide, DJJ parole agents must cover very wide jurisdictions in many cases. This suggests that they may not be able to effectively supervise and support the successful reintegration of these parolees. It is also possible that there are other actions the Legislature could take to reduce DJJ costs and, therefore, should not feel confined to the administration’s proposals. For example, historically DJJ wards have had very high recidivism rates after release, with about three out of every four parolees returning within three years. This suggests that efforts to reduce recidivism could have significant fiscal and public safety benefits.

**Staff Recommendation.** Hold open.

### **Issue 3 – Sex Offender Management Board and SARATSO Review Committee**

**Background.** In 2006, the Legislature enacted several bills related to sex offenders. These included AB 1015 (Chu) which created the Sex Offender Management Board within CDCR to assess the department’s sex offender management practices and provide recommendations to the Legislature on ways to improve current management practices. The Board released a report of its findings and recommendations earlier this year. In 2009, the Legislature passed SB 588 (Committee on Public Safety) – on a 39-0 vote in the Senate – to eliminate the sunset of the Board.

Also in 2006, the Legislature passed SB 1178 (Speier) which required that all sex registrants undergo a risk assessment referred to as the State Authorized Risk Assessment Tools for Sex Offenders (SARATSO), and that the state provide statewide training on how to implement the risk assessment tool. In 2009, the Legislature passed SB 325 (Alquist) – on a 35-0 vote in the Senate – which expanded the responsibilities of the SARATSO Committee and moved the responsibility for staffing the committee to CDCR.

**Governor’s Budget Request.** The administration proposes \$561,000 to fund 3.5 positions (3.3 PYs) and ongoing consulting and training costs to fulfill the requirements of existing laws related to the establishment of the SOMB and SARATSO.

	2009-10	2010-11
General Fund	\$0	\$561,000
PY’s	0	3.3

**Staff Recommendation.** Approve as budgeted. The proposal reflects no additional positions as these positions had already been funded but as limited-term positions. The requested resources are reasonable given the extension of SOMB under SB 588 and the expansion of SARATSO under SB 325.

#### Issue 4 – Mental Health Program Ratios Staffing

**Background.** In 2006, the federal court in the *Coleman v. Schwarzenegger* case pertaining to inmate mental health care required the California Department of Corrections and Rehabilitation (CDCR) to develop a new methodology for determining future staffing levels necessary to provide constitutionally adequate mental health care. In response to this court order, the 2006-07 budget package included \$750,000 for CDCR to conduct a staffing analysis study along with statutory language that specified that the results of this study would be incorporated in the subsequent budget process. The eventual study, known as the Staffing Analysis Model (SAM), was completed by external consultants and presented to the Legislature in June 2007. In general, SAM takes into account the types of tasks that need to be completed to provide such care, as well as the time it takes and the classification of employees needed to complete these tasks.

Based on the results of this model, the 2008-09 budget authorized 404.7 positions for inmate mental health care—(1) 245.1 mental health positions under the authority of CDCR and (2) 159.6 nursing positions who were under the authority of the Receiver, but intended to provide mental health services. However, the 2008-09 budget did not appropriate additional funding for these positions. This is because CDCR indicated that the positions would be funded temporarily with salary savings. At this time, the department reports that none of the 404.7 positions have been filled.

After further review of the above staffing model, the department now concludes that the SAM developed by the external consultants is unreliable. As a result, the department recently developed a new workload methodology internally in consultation with the Special Master assigned by the *Coleman* court. According to CDCR, mental health clinicians and managers were asked to estimate the staff necessary to deliver an adequate level of mental health services to inmates. The department then used this data, as well as data collected from several other states, to develop staffing ratios for most mental health position classifications (such as psychologists).

**Governor's Budget Request.** Based on these ratios, the department requests an additional 362.1 positions and funding that will eventually total \$77.2 million annually upon full implementation in five years. These positions are in addition to the 245.1 positions authorized for CDCR in the 2008-09 budget, for a total of about 607.2 mental health positions (581.5 PYs). For 2010-11, the Governor's budget proposes a \$9.8 million General Fund augmentation to support 73 of the 607.2 positions.

	2009-10	2010-11
General Fund	\$0	\$9,817,000
PY's	0	-187.3

**LAO Concerns and Recommendation.** The LAO lists four primary concerns with this proposal (described in more detail below). Based on these concerns, the LAO recommends that the Legislature reject this proposal.

- Need for New Staffing Methodology Not Fully Justified.*** According to the LAO, the CDCR perceives that SAM is now an unreliable model for estimating mental health staffing needs. Specifically, the department suggests that (1) the model is based on flawed assumptions regarding workload requirements, (2) the external consultants did not adequately consult with CDCR staff as the model was being developed, (3) the model is not transparent and is difficult to update for changes in the mental health delivery program and the size of the inmate population. However, the LAO notes that while the Special Master also raised a similar concern that some of the assumptions in SAM are flawed, he did find the model to be completely functional and adaptable. He recommended that the department address the flawed assumptions and then continue using SAM. Moreover, a report prepared for the department by the consultants that developed SAM appears to contradict some of CDCR's assertions. According to this report, all workload assumptions were validated against the department's own data, as well as against industry standards and comparable data from other states, and reviewed by clinical experts, including CDCR staff. The LAO also notes that the department plans to use its staffing-ratio methodology only for determining the need for certain mental health positions (such as psychologists and psychiatrists). For other types of positions (such as nurses), the department intends to continue using SAM. At this time, it is unclear why CDCR believes that two different staffing methodologies are warranted.
- Vacancy Rates Remain High for Certain Mental Health Classifications.*** The LAO's analysis indicates that CDCR may not be able to effectively fill all of the requested positions in the timeline outlined by the department, due to the high

vacancy rates that currently exist for such positions. More than half of the 607.2 positions that the department is seeking funding for over the next five years are for classifications with vacancy rates of more than 10 percent. For example, 178 positions are for the classification of Licensed Clinical Social Worker, for which the department currently has a vacancy rate of 27 percent. In addition, 39 positions are for the classification of Staff Psychiatrist, for which the department currently has a vacancy rate of 40 percent. Given such high vacancy rates, the requested funding may not be spent as proposed in the budget year to the extent that the requested positions are not filled.

- **Salary Savings Remain Available.** The department's initial plan was to fund the roughly 400 mental health positions authorized in the 2008-09 budget temporarily with salary savings. According to CDCR, none of these positions have been filled and \$46 million in salary savings from the vacant mental health positions has instead been spent on nursing registry. However, data provided to us by the department indicate that actual salary savings from the vacancies in mental health staff in 2008-09 totaled about \$100 million. At the time of this analysis, the department has yet to fully explain how the remaining salary savings were spent and why the \$100 million in savings would not be more than sufficient to temporarily offset the General Fund augmentation proposed in the Governor's budget.
- **State Costs for Mental Health Care Have Grown Significantly.** The Governor's budget proposes a total of \$385 million from the General Fund for mental health services in 2010-11. This is \$219 million more than the amount the state spent on such services in 2005-06 — more than doubling expenditures in this area. The increases in General Fund expenditures on inmate mental health care have largely been driven by the need for additional staff (such as pharmacy technicians) and significant increases in employee compensation for existing staff (such as for psychiatrists).

**Staff Comments.** The committee may wish to have the department respond to the concerns raised by the LAO. Also, it is important to note that while the proposed budget year expenditures are \$9.8 million, the total increase to the department's budget over the next five years would be \$77.2 million based on the roll-out plan identified. This includes almost 600 newly funded positions. Therefore, the committee will need to weigh the full multi-year costs of this plan in the context of the current and projected fiscal condition of the state budget.

#### 5-Year Proposed Roll-Out of Mental Health Positions and Costs

Fiscal Year	PY	Costs
2010-11	45.4	\$9,813,000
2011-12	179.2	\$20,802,000
2012-13	169.9	\$20,762,000
2013-14	126.9	\$19,624,000
2014-15	60.1	\$6,240,000
<i>Totals</i>	<i>581.5</i>	<i>\$77,242,000</i>

**Staff Recommendation.** Hold open.

## Issue 5 – Coleman Short Term and Intermediate Custody

**Background.** The *Coleman* case, filed in 1992, involves allegations that the state prison system provided constitutionally inadequate psychiatric care for inmates. A federal court found the state to be in violation of federal constitutional standards for inmate medical care and established a special master in 1995 to monitor state efforts to remedy the problems. The state implemented a series of remedial actions, which are still continuing.

There are currently about 7,800 inmates in need of mental health treatment that requires some sort of specialized housing. More than two-thirds of these inmates are Enhanced Outpatient Program (EOP) inmates who have significant enough mental health issues that they need to be housed in units separated from the General Population. The department also has about 2,000 inmates who need other types of specialized mental health housing generally based on the acuity their mental health condition.

**Governor's Budget Request.** The administration requests \$6.7 million annually for limited-term positions to provide custody support of 13 short and intermediate mental health housing units. These units are designed to meet the requirements of the *Coleman* court until more permanent mental health housing units and treatment space are activated. The primary duties of the custody staff will be to provide security supervision and escort inmates.

	2009-10	2010-11
General Fund	\$0	\$6,725,000
PY's	0	73.2

**Staff Comments.** The state has developed a plan to construct and implement permanent housing and treatment space for mentally ill inmates. However, it is likely to take several years before this construction can be completed. In the meantime, it is a priority of the *Coleman* court that mentally ill inmates be provided with adequate treatment in existing facilities. One of the keys to providing such treatment is providing sufficient security staffing to safely escort inmates to and from treatment, recreation time, and other activities.

While security staffing appears necessary to implement the current plans, it is unclear whether the department has identified any offsetting savings associated with the housing units from which the inmates were transferred. The LAO reports that an adjustment for this will be made in the May Revision. The LAO also reports that it is awaiting an updated implementation plan for the activation of the short and intermediate term facilities in this proposal which could also affect the total resources required.

**Staff Recommendation.** Hold open.

## Issue 6 – Correctional Treatment Center, San Quentin Staffing

**Background.** Last year, the Legislature approved the department's 2009-10 April Finance Letter to staff the Mental Health Crisis Bed (MHCB) Unit at the Correctional Treatment Center (CTC) at San Quentin. The positions approved in that request included 106.6 clinical and support positions.

**Governor's Budget Request.** The Governor requests an additional 12 positions (11.2 PYs) and \$762,000 for support of the MHCB Unit in order to meet Title 22 and Title 24 licensing and programming requirements. The positions requested include three pharmacy and lab personnel, two custodians, five facilities operations staff, and 2 office assistants.

	2009-10	2010-11
General Fund	\$0	\$762,000
PY's	0	11.2

**Staff Comments.** The department reports that Title 22 and 24 requirements are quite specific with respect to not only treatment staffing levels, but also support staffing requirements. For example, these regulations have specific requirements for the provision of clean and well maintained facilities and provision of meals supervised by a dietitian.

Staff note that three of the requested positions, a materials and stores supervisor and two office technicians are not positions dictated by current regulations. However, the department argues that these positions are necessary to meet operational needs. The committee may wish to direct CDCR to discuss the reasons for these proposed augmentations, and if the positions are required to operate the CTC, whether the department could redirect positions from other places.

**Staff Recommendation.** Hold open.

## Issue 7 – SCAAP

**Background.** California, along with other states and local governments, receives a share of federal funding under the State Criminal Alien Assistance Program (SCAAP). This program reimburses jurisdictions for the costs associated with the incarceration of undocumented immigrants. The SCAAP funds received are deposited into the General Fund. The administration estimates that the state will receive about \$90.6 million in SCAAP funds in 2010-11 but that the state incurs total costs of about \$970 million annually to house undocumented immigrants.

**Governor's Budget Request.** The Governor's budget assumes that the federal budget will include full reimbursement to California for the incarceration of undocumented immigrants under SCAAP, totaling additional revenues of about \$880 million.

These additional federal revenues count towards the administration's proposed "trigger" cuts, which if not achieved, would result in additional budget reductions across various departments and programs.

	2009-10	2010-11
Federal Fund	\$0	\$879,728,000 (revenues)
PY's	0	0

**Staff Comments.** It seems unlikely that the federal budget will include a significant enough appropriation to provide California with full reimbursement of its costs. Historically, the total federal appropriation has been less than \$400 million dollars annually each of the last several years.

**Staff Recommendation.** Hold open pending assumed receipt of hundreds of millions of dollars of additional federal funds.

## Issue 8 – Population

**Background.** The department provides the Legislature with a budget request twice a year, as part of the Governor's budget proposal in January and as part of the May Revision, that is designed to identify costs and savings associated with changes in department adult and juvenile caseloads.

**Governor's Budget Request.** The administration requests a total of \$624 million in the current year and \$513 million in the budget year due to projected changes in population caseload and related factors. The following two tables break out these totals by Fund and Issue. The current year and budget year estimates will be updated as part of the May Revision.

### *Population Budget Requests by Fund*

	2009-10	2010-11
General Fund	\$626,333,000	\$518,854,000
General Fund – P98	-\$2,184,000	-\$4,808,000
Reimbursements	\$9,000	\$13,000
Inmate Welfare Fund	\$13,000	-\$170,000
<i>Totals</i>	<i>\$624,170,000</i>	<i>\$513,889,000</i>
PY's	2,223.9	587.3



**Population Budget Requests by Issue**

<b>Requests</b>	<b>2009-10</b>	<b>2010-11</b>
Legislative population reforms	\$614,882,000	\$367,342,000
Revocation workload	\$858,000	-\$5,244,000
Caseload adjustments	-\$24,452,000	-\$2,365,000
Stark activation as adult facility	\$28,615,000	\$42,178,000
Nor. Cal. Reentry Facility	\$0	\$8,387,000
Out-of-State beds	-\$128,000	\$2,244,000
Local assistance	\$6,348,000	\$122,654,000
Juvenile justice	-\$1,952,000	-\$21,305,000
<b>Totals</b>	<b>\$624,170,000</b>	<b>\$513,889,000</b>

**Staff Comments.** The population adjustment includes several changes, many of which will be adjusted in the May Revision based on additional data.

- **Legislative Population Reforms.** These costs reflect the additional costs associated with legislative actions taken in the 2009-10 budget that the department project will not materialize for various reasons. For some issues (e.g. alternative custody, updating the threshold for grand theft), the necessary legislation was not enacted. For other issues (e.g. program completion credits, summary parole), the implementation date did not occur until January 2010. For still other issues (e.g. ICE commutations, alternative sanctions) the department does not believe it will be able to fully implement the programs to achieve the estimated savings.
- **Revocation Workload and Caseload Adjustments.** The department identifies several areas where they project some change in underlying workload and caseload based on trend data available, for example related to parolee revocations and the mentally ill inmate and parolee populations. These adjustment do not take into account the recently enacted legislative changes, though the department has stated to staff that it will continue to monitor these workload and caseload issues and make updates in the May Revision.
- **Stark Activation as an Adult Facility.** The department plans to convert the DJJ Stark DJJ facility (Chino) to an adult facility. As of this week, all wards have been moved out of the facility to other juvenile facilities in the state, and inmates have begun to be transferred to the facility, particularly after the Fall riot at the California Institution for Men which resulted in significant damage to several housing units. The department has informed staff that this estimate is still being developed and will undergo significant revision in the May Revision.
- **Northern California Reentry Facility (NCRF).** In November 2010, the department plans to activate the first 100 beds at the Northern California Reentry Facility (Stockton) and populate those beds with Level I inmates. The LAO raises several concerns with this proposal, particularly with high cost per inmate (\$84,000 per year) and the fact that these lower level inmates are not the ones at highest need for the more intensive rehabilitation program that will be provided at the facility. Based on

these conclusions, the LAO recommends the Legislature consider rejecting the early activation of these beds in 2010-11.

- **Out of State Beds.** The administration proposes to expand the number of inmates housed in out-of-state facilities by 2,336. There are currently about 8,000 inmates housed out of state now. The LAO raises several concerns with this proposal, including that several of the positions and requested overtime funding is not fully justified, and that there have been delays in the implementation schedule. Based on these findings, the LAO recommends further reducing the department's request by \$547,000 in the current year and \$2.1 million in the budget year related to the overage of positions and overtime costs, and wait until the May Revision to see what revisions have been made to the implementation schedule.
- **Local Assistance.** The department requests significant one-time and ongoing funding to reimburse counties for costs related to housing offenders in local jails, particularly parole violators. The request includes \$86 million to offset a backlog of payments from the last year and current year, as well as a permanent \$15 million augmentation for this program. In addition, the department requests a one-time \$10 million augmentation for new prison commitments housed in county jails more than five days after notification to CDCR that the inmate needs to be transferred to prison, as allowed under current law. Historically, counties have not charged CDCR for these costs, but CDCR reports having begun to receive such invoices this year. The LAO recommends withholding action on this issue until the May Revision until more information is available on the number of invoices that come from counties. The LAO further recommends that the committee direct the department to explain what they are doing operationally to ensure that inmates are being transferred from counties to state prison in a timely fashion.
- **Juvenile Justice.** The department has identified savings associated with the closure of Stark as a juvenile facility, the consolidation of living units, fewer parolees, and the implementation of a new staffing model. In addition to the savings identified in the population request, CDCR's implementation of a new business staffing model is estimated to generate \$16 million in current year savings and \$38 million in budget year savings which were scored towards the department's \$100 million unallocated budget reduction in the 2009-10 Budget Act.

**Staff Recommendation.** Hold open pending May Revision. The department has noted that several of these requests will be adjusted further in the May Revision based on additional current year caseload data.